

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CHRISTIN DISLER,)	
)	
Plaintiff,)	
)	
v.)	No. 3:04-CV-191
)	(Jarvis/Guyton)
TARGET CORPORATION and)	
TARGET STORES,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the undersigned pursuant to an Order of Reference [Doc. 98], for disposition of the defendant Target Stores' Objection to Plaintiff's Witness List and Motion in Limine to Exclude Plaintiff's Family Members From Testifying at Trial [Doc. 92]. The undersigned conducted a hearing on this motion on September 7, 2005.

The defendant Target Stores moves to exclude three members of the plaintiff's family from testifying at trial based upon a stipulation by counsel that these individuals would not be called to testify at trial. [Doc. 92]. While plaintiff's counsel did indicate at one point to opposing counsel that none of these witnesses would be called, the plaintiff states that she now intends to call her son, Kyle Johnson, as a witness at trial. The plaintiff does not intend to call either her daughter, Ashley Johnson, or her husband, Rick Disler, as witnesses. All three witnesses were properly disclosed in accordance with the Rules of Civil Procedure and the Scheduling Order and have been known to the defendant for some time.

The Court finds that the present motion [Doc. 92] was brought in good faith, based on a reasonable position that the parties had a stipulation, albeit arguably a conditional stipulation. However, the favored approach in this Court is not to exclude or bar the testimony of a previously disclosed fact witness, unless to do otherwise would prejudice the other party. The trial of this case is scheduled for September 26, 2005. The Court finds that there is ample time for the defendant to depose Kyle Johnson without incurring undue prejudice.

For these reasons, the defendant Target Stores' Objection to Plaintiff's Witness List and Motion in Limine to Exclude Plaintiff's Family Members From Testifying at Trial [Doc. 92] is **DENIED** with respect to witness Kyle Johnson. The motion [Doc. 92] is **GRANTED** with respect to witnesses Rick Disler and Ashley Johnson.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge